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Economic Affairs Interim Committee

66th Montana Legislature

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April 6, 2020

To: Economic Affairs Interim Committee
From: Jameson Walker, Legislative Attorney
Re: Administrative Rule Report, April 2020

The Economic Affairs Interim Committee (EAIC) is responsible for reviewing administrative rules promulgated by several state agencies for compliance with the Montana Administrative Procedure Act (MAPA).¹ The following notices are filed with the Secretary of State's Office for publication in the Montana Administrative Register (MAR). Notices are available at <http://www.mtrules.org> (search by notice number).

PROPOSAL NOTICES

Department of Agriculture and administratively attached entities

MAR Notice Number: 4-20-266

Subject: Amendment of rules pertaining to restricted weed seeds.

Summary: The department proposes to amend 4.12.3011 (restricted weed sales). The department proposes to remove Yellow Toadflax from the list of seeds that may not be sold in excess of 0 seeds per pound. The department proposes to insert Palmer Amaranth into the rule. The department states that Yellow Toadflax is already prohibited in another administrative rule (4.12.3010). The department states that Palmer Amaranth is being added to the statute because it poses an imminent threat to Montana agricultural producers for the 2020 planting season.

Notes/Hearing: The department will hold a public hearing on April 17, 2020, to consider the notice.

MAR Notice Number: 4-20-267

Subject: Adoption and amendment of rules pertaining to Commodity Dealer Licenses.

¹ The Committee reviews rules promulgated by the following entities: Department of Agriculture, Department of Commerce, Department of Labor and Industry, Department of Livestock, State Auditor's Office, Division of Banking & Financial Institutions, Governor's Office of Economic Development, and Department of Revenue, Liquor Control Division. This report does not represent any action or opinion of the Committee and does not preclude additional action that may be taken by the Committee pursuant to its authority under the Montana Administrative Procedure Act, Title 2, chapter 4, MCA.

Summary: The department proposes to adopt New Rules I through III. New Rule I provides for conditioned, suspended, or revoked licenses for commodity dealers. New Rule II provides for a penalty matrix for commodity dealers and warehouse laws. New Rule III provides for records retention. The department states that the rules are similar to Mar Notice No. 4-19-262, which was not pursued after its September 4, 2019, public hearing. The department states that it is adopting these rules to ensure payment to producers from commodity dealers. The department additionally states that the new rules implement House Bill 50 (2019) and provide clear guidelines on records retention. The department is also amending 4.12.1018 (term of licenses -- expiration), 4.12.1020 (financial statements filing date), and 4.12.1031 (other commodities). Generally, the rule amendments implement House Bill 50 and Senate Bill 73 from the 2019 session. Additionally, the department is clarifying hemp rules to provide clarity.

Notes/Hearing: The department will hold a public hearing on April 17, 2020, to consider the notice.

Department of Commerce and administratively attached entities

MAR Notice Number: 8-22-181

Subject: Amendment of rules pertaining to the Board of Horseracing.

Summary: The department proposes to amend 8.22.2705 (purse disbursement formula) and 8.22.3001 (general requirements). The amendments seek to give flexibility in deciding where live racing funds are disbursed. The department states that it is modifying the rules relating to a model rule from the Association of Racing Commissioners International regarding digital tattoos.

Notes/Hearing: The department does not anticipate the need to conduct a public hearing for the notice.

MAR Notice Number: 8-94-182

Subject: Amendment and repeal of rules pertaining to the Community Development Block Grant Program (CDBG).

Summary: The department proposes to amend 8.94.3727, 8.94.3729, and 8.94.3730. The department is removing references to outdated material relating to the administration of the program. The department proposes to repeal of 8.94.3726 (administration of the 2010-2011 CDBG) because all projects initiated under this administrative rule have been closed out.

Notes/Hearing: The department held a public hearing on April 2, 2020, to consider the notice.

MAR Notice Number: 8-94-183

Subject: Amendment of rules pertaining to the CDBG program.

Summary: The department proposes to amend 8.94.3731. The amendment will update references to the 2020 Housing Stabilization Program Application Guidelines and other clerical changes.

Notes/Hearing: The department will hold a public hearing on April 16, 2020, to consider the notice.

Department of Labor and Industry and administratively attached entities

MAR Notice Number: 24-225-41

Subject: Amendment, adoption, and repeal of rules pertaining to the Board of Veterinary Medicine.

Summary: The board proposes to amend 24.225.301 (definitions), 24.225.514 (patient medical records and recordkeeping), 24.225.550 (unprofessional conduct), 24.225.709 (continuing education), 24.225.904 (certified euthanasia technicians – license requirements), 24.225.907 (board-approved training program criteria), 24.225.910 (certified euthanasia technician examinations – written and practical), 24.225.920 (application for certified euthanasia agencies), 24.225.921 (inspections – initial and annual), 24.225.925 (continuing education – certified euthanasia technicians), and 24.225.950 (unprofessional conduct). The board proposes to adopt New Rule I (certified euthanasia agency operation standards), New Rule II (change of attorney-in-fact), and New Rule III (closure of a certified euthanasia agency or loss of DEA permit). The board proposes to repeal 24.225.901 (definitions) and 24.225.926 (termination of certified euthanasia technician employment and retirement of certificate). The amendments attempt to consolidate all definitions in one section to provide consistency and better organization. The board is updating its unprofessional conduct rule to more clearly set forth the actions considered by the board as unprofessional conduct. The amendments seek to align the board's rules with the department's standardized application, renewal and audit processes and remove outdated, redundant, and unnecessary provisions. The proposed rules clarify the operating criteria for Certified Euthanasia Agency Operation standards. The board proposes to repeal rules to provide consistency and with the proposed rules.

Notes/Hearing: The department will hold a public hearing on April 7, 2020, to consider the notice.

Department of Revenue, Liquor Control Division

MAR Notice Number: 42-1017

Subject: Amendment and repeal of rules pertaining to approval of a licensee without premises and concession agreements.

Summary: The department proposes to amend 42.12.101, 42.12.106, 42.12.130, 42.12.133, 42.12.209, 42.13.101, and 42.13.107. The department proposes to repeal of 42.12.207. Generally, the department seeks to implement House Bill 727 (2019). This bill sought to streamline department approval of alcohol license applications and provided for concession agreements. The department's rules seek to administer HB 727. The department also seeks to update rules relating to concession agreements.

Notes/Hearing: The department will hold a public hearing on May 6, 2020, to consider the notice.

MAR Notice Number: 42-1019

Subject: Adoption of rules pertaining to the Montana Economic Development Industry Advancement Act (MEDIAA).

Summary: The department proposes to adopt New Rules I through XIV. The rules seek to administer House Bill 293 (2019) which created MEDIAA. MEDIAA seeks to enhance Montana's economy by expanding film and related media production in the state, by increasing job opportunities for a broad array of workers, and by promoting the growth of small business. The rule seek to:

- (a) adopt definitions for new terminology established in, or as an extension of, MEDIAA;
- (b) provide procedural coordination and guidance with the Montana Department of Commerce (DOC) in its certification of a MEDIAA-compliant production;
- (c) provide department forms and uniform application processes through which production companies or postproduction companies may apply to the department to reserve the respective media production or postproduction tax credits;
- (d) determine qualified production expenditures allowed under 15-31-1007, MCA, and qualified postproduction wages allowed under 15-31-1009, MCA;
- (e) review taxpayer compliance with the provisions of 15-31-1004, MCA; and
- (f) administer the transfer of tax credits.

Notes/Hearing: The department will hold a public hearing on May 8, 2020, to consider the notice.

Department of Livestock and administratively attached entities

MAR Notice Number: 32-20-307

Subject: Amendment of rules pertaining to brands enforcement division fees.

Summary: The department proposes to amend 32.2.404 (fees). The department proposes to amend the rule to state that recording of a new brand or mark during a rerecord year will not incur an additional rerecord charge.

Notes/Hearing: The department does not anticipate the need to conduct a public hearing.

State Auditor's Office

There are no pending rules.

Division of Banking & Financial Institutions

There are no pending rules.

Governor's Office of Economic Development

There are no pending rules.